

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
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SPECIAL CIVIL APPLICATION No 1368 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

PK SHAH

Versus

GUJARAT INDUSTRIAL CO OP BANK LTD

Appearance:

Mr.K.A.Shelat for Petitioner

MR DIPAK R DAVE for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 20/06/97

ORAL JUDGEMENT

1. This Special Civil Application had been filed initially against the interim order passed by the Labour Court in a complaint under S.33A moved by the petitioner. During the pendency of this Special Civil Application against the interim order, the Labour Court passed the final order rejecting the complaint. Although the petitioner had earlier challenged the ultimate order rejecting his complaint passed by the Labour Court by way

of seeking an amendment and the amendment was allowed, the petitioner now submits that the inquiry is pending against him and the second show cause notice had also been given. In such circumstances, the learned counsel for the petitioner states that he feels advised to wait for the final order to be passed in the inquiry after he files the reply to the second show cause notice. Mr. Dave appearing on behalf of the respondent submits that 15 days further time from today only may be given to the petitioner for filing the reply to the second show cause notice as considerable long time has already lapsed from the date of the second show cause notice. Mr. Shelat appearing for the petitioner submits that at this stage he may be permitted to withdraw this Special Civil Application with liberty to challenge the ultimate order, in case the same is passed against him after considering his reply to the second show cause notice and he may file the reply to the second show cause notice within 15 days from today. Accordingly this Special Civil Application is dismissed as withdrawn with liberty to the petitioner to file a reply to the second show cause notice within 2 weeks from today and further in case the ultimate order is passed against him, it will be open for the petitioner to challenge the same in accordance with law. On the request of the learned counsel for the petitioner, it is further ordered that in case the ultimate order is passed against the petitioner, the same shall not be given effect to and acted upon for a period of 2 weeks from the date the order is served upon him so that he may avail the remedy for obtaining an interim order within that period of 2 weeks, but the petitioner shall be under an obligation to supply the copy of the application/petition Memo to the respondent - Bank so that the Bank also has an opportunity to oppose the grant of any interim order. Mr. Dave submitted that such an order giving protection for 15 days may not be passed in the facts of this case. However, looking to the fact that there is a dispute between the parties as to whether the petitioner is a protected workman or not, further looking to the fact that there are allegations of victimization and unfair labour practice and that the petitioner has been a trade Union leader representing other employees in the inquiry, I consider it in the fitness of things to grant him protection for 15 days in case adverse order is passed against him, more so because the litigation has been going on between the parties on this issue for quite some time.

With the directions and observations, as aforesaid, this Special Civil Application is dismissed as withdrawn and the Rule is hereby discharged with no order

as to costs.

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